

## Wu, Jennifer

---

**From:** Emi Kondo - NOAA Affiliate <emi.kondo@noaa.gov>  
**Sent:** Friday, April 07, 2017 7:29 AM  
**To:** Wu, Jennifer  
**Cc:** Seyfried, Erin  
**Subject:** Re: Question re: permit expiration/final limit

Ah, ok. Thanks for a clear answer!

On Thu, Apr 6, 2017 at 9:57 PM, Wu, Jennifer <[Wu.Jennifer@epa.gov](mailto:Wu.Jennifer@epa.gov)> wrote:

Hi Emi, here's what Erin passed on to me re: your question. Thanks, Erin!

The compliance schedule provided in a permit is continued into future issuances (so if we provide a 9 yr, 11mo compliance schedule, that final compliance date and all interim requirements are maintained and carried forward). Generally, if the facility is meeting the interim goals and limits, we will not modify the compliance schedule during the reissuance process. However, if after making alterations to the facility operations (e.g. commonly required to achieve low nutrient limits) and the permittee is unable to comply with the interim goals of the compliance schedule, we can modify it during the next permit issuance, or issue a permit modification. This would be consistent with our regulations at 40 CFR 122.62. These modifications would not alter the final effluent limits if they are based on water-quality issues, as is the case with LNFH, it would only alter interim goals/limits.

**From:** Emi Kondo - NOAA Affiliate [mailto:[emi.kondo@noaa.gov](mailto:emi.kondo@noaa.gov)]  
**Sent:** Thursday, April 06, 2017 3:46 PM  
**To:** Seyfried, Erin <[Seyfried.Erin@epa.gov](mailto:Seyfried.Erin@epa.gov)>  
**Cc:** Wu, Jennifer <[Wu.Jennifer@epa.gov](mailto:Wu.Jennifer@epa.gov)>

**Subject:** Re: Question re: permit expiration/final limit

Thanks, Jenny and Erin.

So how does the compliance time table and the final limit play into the next permit? Theoretically, if the next permit is issued before the expiration of the current draft permit, the 10 year compliance period would come at the end of the next permit. So would you just carry that timeline over to the next permit? Or is that something you re-assess at the next permit issuance stage?

On Thu, Apr 6, 2017 at 2:20 PM, Seyfried, Erin <[Seyfried.Erin@epa.gov](mailto:Seyfried.Erin@epa.gov)> wrote:

Hello Jenny and Emi –

Jenny is correct. NPDES permits are effective for a term not to exceed 5 years (40 CFR 122.46(a)). When EPA is the permit-issuing authority (as in this case), the conditions of the expired permit continue in force until the effective date of a new permit if: (1) the Permittee submits a timely and complete application for renewal to EPA 180 days prior to the expiration date of their permit, and (2) EPA has not issued a new permit, through no fault of the permittee, prior the expiration of the pervious permit (40 CFR 122.6). When EPA administratively continues a permit, then the permit remains fully effective and enforceable. If the permittee does not submit a timely and complete application for renewal, then their permit will expire and they will be operating without a NPDES permit (as is case for LNFH).

Thanks,  
Erin

---

**From:** Wu, Jennifer  
**Sent:** Thursday, April 06, 2017 1:05 PM  
**To:** Emi Kondo - NOAA Affiliate <[emi.kondo@noaa.gov](mailto:emi.kondo@noaa.gov)>; Seyfried, Erin <[Seyfried.Erin@epa.gov](mailto:Seyfried.Erin@epa.gov)>  
**Subject:** Re: Question re: permit expiration/final limit

Hi Emi, Got your email and sorry to have missed your call. I'm working on the email as I realized the model run we had done has some inputs that need to be corrected, so I'll get you the info later.

LNFH could ask that their permit be administratively extended if we don't issue another permit. If we grant it, then they're still under the permit conditions of the old permit. If we don't act or they don't submit an administrative extension, I believe they would not be in compliance with NPDES regs, so would have an enforcement action taken against them. I'm cc'ing Erin to make sure I have this right or to add anything I'm missing.

---

**From:** Emi Kondo - NOAA Affiliate <[emi.kondo@noaa.gov](mailto:emi.kondo@noaa.gov)>  
**Sent:** Thursday, April 6, 2017 12:36:21 PM  
**To:** Wu, Jennifer  
**Subject:** Question re: permit expiration/final limit

Hi Jenny,

I called your office, but your voicemail said you're working from home, so I'm shooting you an e-mail instead. I was wondering if you could quickly explain to me how the final limit works if the permit expires in 5 years. Not a big deal, but I want to make sure I'm understanding it right.

Also, thanks for your voicemail. I'll be on the look out for the e-mail from you re: pH and DO.

Thanks,  
Emi

--

**Emi Kondo**  
*NEPA Support, Scientist VII*  
*Contractor with Ocean Associates, Inc.*  
*Anadromous Production and Inland Fisheries Program*  
*NOAA Fisheries, West Coast Region*  
(503)736-4739  
[Emi.Kondo@noaa.gov](mailto:Emi.Kondo@noaa.gov)

--

**Emi Kondo**  
*NEPA Support, Scientist VII*  
*Contractor with Ocean Associates, Inc.*

*Anadromous Production and Inland Fisheries Program*  
*NOAA Fisheries, West Coast Region*  
[\(503\)736-4739](tel:(503)736-4739)  
[Emi.Kondo@noaa.gov](mailto:Emi.Kondo@noaa.gov)

--

**Emi Kondo**  
*NEPA Support, Scientist VII*  
*Contractor with Ocean Associates, Inc.*  
*Anadromous Production and Inland Fisheries Program*  
*NOAA Fisheries, West Coast Region*  
(503)736-4739  
[Emi.Kondo@noaa.gov](mailto:Emi.Kondo@noaa.gov)